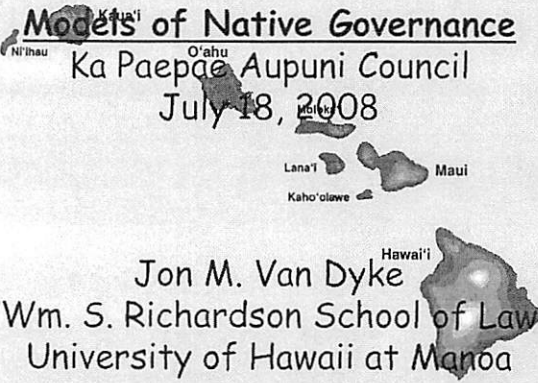


Models of Native Governance
 Ka Paepae Aupuni Council
 July 18, 2008



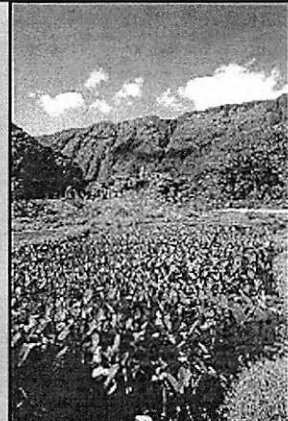
Jon M. Van Dyke
 Wm. S. Richardson School of Law
 University of Hawaii at Manoa

Pre-Contact Hawaii

Pre-contact Hawaiians honored the natural life forces which took many forms.

They made no distinction between living and nonliving things.


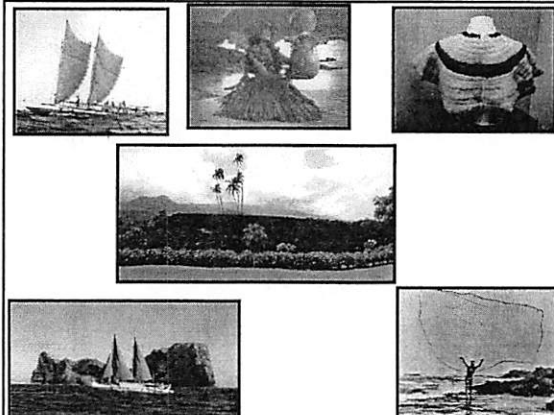
All natural life forces exerted an energy beyond human origin or control.



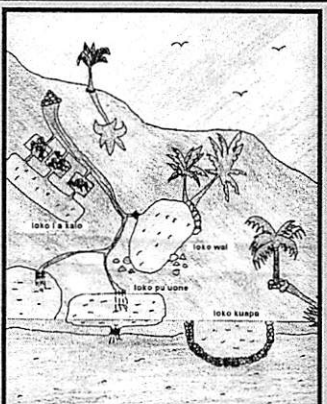
Pre-Contact Hawaii

The 'Aina (land) was not a commodity to be owned or traded, because such actions would disgrace and debase one's family and oneself.

The Hawaiians were said to have had an organic relationship with the 'Aina, and the 'Aina was part of the 'ohana (extended family), which connected individuals with each other.

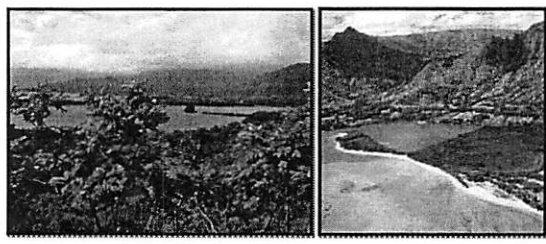



Hawaiians practiced what we would today call "aquaculture" by constructing various types of fishponds, in which they were able to raise mullet and other nearshore fish species.



Types Of Hawaiian Fishponds

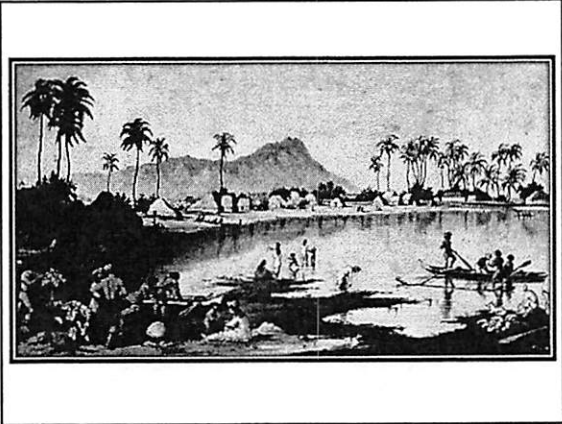
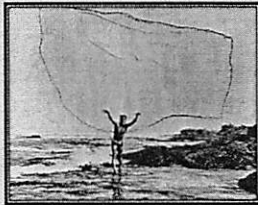
Moli' i Fishpond (Windward O'ahu)



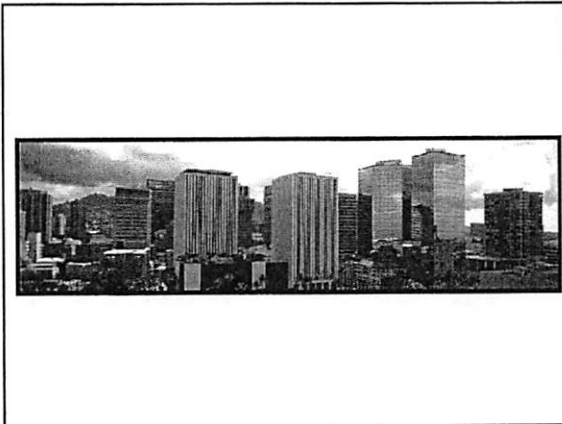
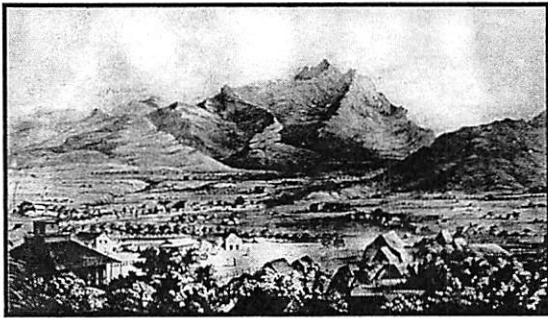
Native Hawaiians.

Fish and invertebrates were harvested by several methods including throw-, scoop- and seine-nets, hooks, plant poison, spears, and traps.

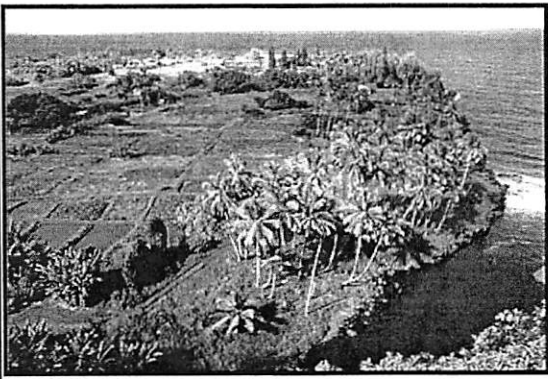
Women specialized in harvesting in the nearshore areas—reef flats, beaches, tidepools and mouths of streams, while the men concentrated their efforts in deep sea areas.



Honolulu 1853



Keanae Peninsula, Maui



The Native Hawaiian People

The present population of *Native Hawaiians* in Hawaii is about 200,000, making them *one of the largest groups of indigenous peoples in the United States.*

But they are also *the only indigenous group in the United States that has never had either a settlement with or a claims commission established by the federal government.*

The rules governing federal recognition of Indian tribes apply only to the continental United States.





Hawaiian Homes Commission Act

In 1921, Congress enacted the Hawaiian Homes Commission Act, 1920 which designated 203,000 acres of the ceded public lands for exclusive homesteading by Native Hawaiians, thereby affirming the trust relationship between the United States and the Native Hawaiians.

• See Health Care Act, Findings, par. 13; Education Act, Findings, par. 8

"Indians" Were Recognized as Having a Separate Legal Status in the United States Constitution

Indians were recognized as having a **separate legal status** in **Article I, Section 2, para. 3** (untaxed Indians not included in count to determine apportionment of U.S. House of Representatives) and **Article I, Section 8, clause 3** (Indian Commerce Clause).

Indians were not deemed to be citizens of the United States nor were they eligible to become naturalized at first.



US Constitution - Art. I, Sec. 8, Cl. 3

The Congress shall have Power... To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes...

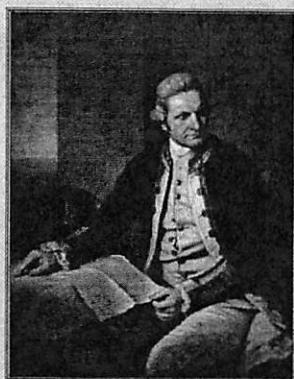


Art. I, Sec. 2, Para. 3

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of **free Persons**, including those bound to Service for a Term of Years, and **excluding Indians not taxed**, three fifths of all other persons



Westerners called all the native people they met "**Indians**" -- including **Captain James Cook**, in his writings describing Pacific Islanders.



Early U.S. Cases – John Marshall

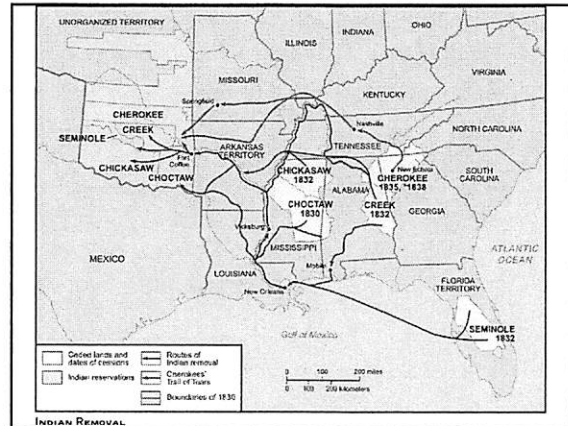
Cherokee Nation v. Georgia, 30 U.S. (5 Pet.) 1(1831) -- describing Indian tribes as "**domestic dependent nations**" and stating that "[t]heir relation to the United States resembles that of a **ward to his guardian**."

Worcester v. Georgia, 31 U.S. (6 Pet.) 515 (1832) -- ruling that Georgia could not enforce its state laws within the Cherokee lands.



Worcester v. Georgia (1832)

Chief Justice John Marshall: "The Cherokee nation, then, is a distinct community, occupying its own territory, with boundaries accurately described, in which the laws of Georgia can have no force, and which the citizens of Georgia have no right to enter but with the assent of the Cherokees themselves or in conformity with treaties and with the acts of Congress."



The Trail of Tears (Cherokee Removal, 1835, 1838)

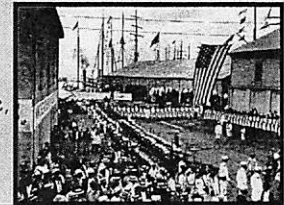


Assimilation Period (~1865-1970)

U.S. sought to reduce the number of tribes and refused to recognize new ones.

No special status given to the natives when Alaska and Hawaii were acquired by the United States.

US Troops Come Ashore, Honolulu, January 1893



Current Approach (Since 1970)

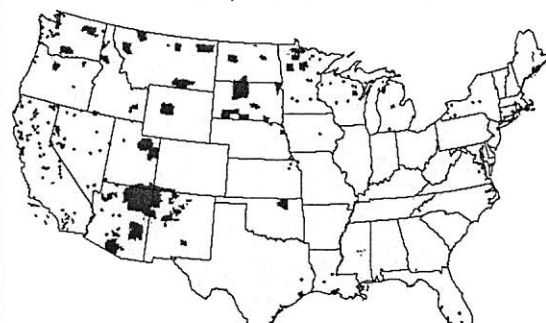
Recognizing that Native People Have a Separate & Distinct Status & Are Entitled to Autonomy.

The United States formally affirmed the legitimacy of native autonomy in **President Nixon's** Special Message to Congress of July 8, 1970.



Since then, federal recognition has been given to many tribes previously denied this status, and significant land settlements have been reached with a number of tribes.

"Indian Country" in the United States



The US Has a Political Relationship with More than 550 Federally-Recognized Tribes

United States v. Wheeler (1978)

* Indian tribes are "unique aggregations possessing attributes of sovereignty over both their members and their territory."



* The sovereignty of native peoples is not something granted by the federal government, but is something that they have always possessed.

* "the power to punish offenses against tribal law committed by Tribe members, which was part of the Navajos' primeval sovereignty, has never been taken away from them...and is attributable in now way to any delegation to them of federal authority. It follows that when the Navajo Tribe exercises this power, it does so as part of its retained sovereignty and not as an arm of the Federal Government."

The Varieties of Native Sovereign Nations

* Traditional Tribes

* State Chartered Corporations

* Municipalities

Pursuant to State Law



Alaska Native Claims Settlement Act of 1971

- Indigenous people who are not anthropologically "Indians" granted same political status as Indians.
- 45 million acres set aside for Alaska Natives, but extinguished aboriginal title
- \$962.5 million cash settlement



Alaska Native Claims Settlement Act (ANCSA)

* Alaska Natives enrolled in one of 13 regional corporations and one of 200+ village corporations.

* Stock in the corporations remains inalienable pursuant to 1991 amendments.

* Native villages have the same self-governing status and sovereign powers as tribes in the contiguous 48 states

* Natives waived their claims to "aboriginal title" – lands are not "Indian Country"

* Alaska Natives continue to be included in most Indian legislation based on continuing fiduciary relationship.



Alaska Native Claims Settlement Act (ANCSA)

* No provision for exercise of aboriginal hunting and fishing rights.

* Clarified somewhat by Alaska National Interest Lands Conservation Act (1980), which permits "subsistence" hunting and fishing on public lands by "rural residents of Alaska" to promote "Native physical, economic, traditional, and cultural existence."



Rhode Island Indian Claims Settlement Act (1978)

* Mandated the establishment of the Narragansett Indian Land Management Corporation as a "permanent, public corporation of the state having a distinct legal existence from the State and not constituting a department of state government" to "acquire, perpetually manage, and hold" settlement lands.

* Exempt from state taxes, but subject to state criminal and civil laws.

* Can govern hunting and fishing on corporate lands.



Municipality/Political Subdivision

Nunavut -- Canada



Constitutional Convention-- Issues that could be examined:

Hawaiian Rights

--Should the duties and powers of the Office of Hawaiian Affairs be clarified?

--Should the manner of selecting Trustees be altered? (Current structure requires at-large elections with 5 of the 9 Trustees required to be residents of named islands--Hawaii, Kauai, Maui, Molokai & Oahu)

--**Should a new political subdivision be created for the Hawaiian people in order to give Hawaiians autonomy within the state's political operations? (State within a state model)**

--Should the traditional and customary rights of the Hawaiian people be clarified, particularly with regard to their potential conflict with other property rights? (The Taking Issue)

--Should we define the terms "Native Hawaiian" and "Hawaiian," and if so, how should they be defined?



Hawaii Constitution - Article VIII

Section 1. The legislature shall create counties, and may create other political subdivisions within the State, and provide for the government thereof. Each political subdivision shall have and exercise such powers as shall be conferred under general laws.

Section 2. Each political subdivision shall have the power to frame and adopt a charter for its own self-government within such limits and under such procedures as may be provided by general law...

Section 3. The taxing power shall be reserved to the State, except so much thereof as may be delegated by the legislature to the political subdivisions....



Fundamental Powers Available to Sovereign Native Nations

- * The Power to Establish a Form of Government
- * The Power to Determine Membership
- * The Power to Legislate for Health, Safety & Welfare
- * The Power to Tax, Issue Bonds,
- * The Power to Administer Justice (over members of the native nation)
- * The Power to Police and Fight Fires
- * The Power to Control and Manage Lands, Resources, and Funds; to Zone Lands; and Regulate Conduct on Trust Lands
- * The Power to Charter Business Organizations
- * The Power to Operate Schools
- * The Power to Be Free from State Taxing Authority
- * Sovereign Immunity

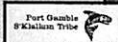


The Power to Charter Business Organizations

* Enterprises established to manage tribal assets have the same status as the tribe itself for purposes of governmental immunity from taxation and lawsuits.

* Immunity can be waived regarding specific transactions.

* Native governments can also charter private corporations and regulate their activities pursuant to tribal law.



Video Conferencing Room of the Development Authority of the Port Gamble S'Klallam Tribe (WA)



Many Tribes Have Moved Beyond Gaming.

* The 3 tribes of Oregon's Warm Springs confederation generate \$80 million/year through a power plant, timber operation, vacation resort & apparel company.



* Arizona's White Mountain Apaches manage 9 enterprises, including an aircraft parts plant, with revenues of \$45 million.

* The Ak-Chin tribe in Arizona operates a \$10 million agribusiness.

* The Yavapais tribe in Arizona maintains a hotel as well as a casino & has leased land for construction of a mall.

* Maine's Passamaquoddies run an auto parts plant, apparel operation, mini-mall & farm; license out a synthetic-fiber plant & environmental scrubber technology; & bought & sold a cement plant, for large profit.



* Wisconsin's Oneidas own a mobile-telephone company & a partial interest in a bank, participate in a joint venture to produce circuit boards & are moving to create metals fabrication & medical products companies.

* South Dakota's Rosebud Sioux are planning a large food-processing plant.

Mississippi Choctaws Find Economic Success -- Once-impoverished Tribe Becomes Engine for Regional Growth (NPR July 17, 2004)

In rural Neshoba County, Miss., once one of the country's most economically depressed areas, a Native-American tribe has proven to be a powerful catalyst for growth. The 8,000 members of the Mississippi Band of Choctaw Indians have created an industrial and recreational empire in the region that's brought prosperity to themselves and their neighbors.

Choctaw Chief Phillip Martin, 78, is now one of the most influential persons in Neshoba County, Mississippi.



Mississippi Band of Choctaw Indians

In the 1960s, most members of the Choctaw band lived under miserable economic and health conditions. Nearly all houses on the reservation were considered substandard: 90 percent had no indoor plumbing; one-third had no electricity.

In the 1990s, the Choctaw band opened its first casino, which soon became a tourist destination. Its latest project is the Pearl River Resort, aimed at attracting families. Today, the tribe is Mississippi's second-largest employer.



Mississippi Band of Choctaw Indians

Today the tribe runs a casino, construction firm, printing plant, shopping center, and other businesses that collectively generate revenues of \$300 million a year.

* Jobs are increasingly technical and professional.

* Average annual family incomes have climbed from \$2,000 in the mid-1970s to more than \$10,000 today.

* The number of Choctaws on welfare has fallen dramatically; education, health, and housing have sharply improved.



Panobscot Indians, Maine

This tribe (3,000 members) became federally recognized through the 1980 Maine Land Claims Act.

Under the terms of the agreement, the Penobscot and Passamaquoddy tribes received a settlement of \$81.5 million.

They live on a reservation at Indian Island, near Old Town.



United States v. Washington, 384 F.Supp. 312 (D.Wash. 1974)

* U.S. District Judge George Boldt interpreted the right to take fish "in common with all citizens of the territory" to mean that treaty Indians and nonnative residents of Washington were each entitled to a 50-50 share of the total harvestable catch, and that the tribes' 50% share encompassed commercial as well as personal uses.

* In accordance with congressional intent to increase tribal self-government, Judge Boldt also established the tribes as co-managers of the resources.



Pacific Northwest Native Americans

* Most treaty tribes now maintain a fisheries management staff, although several tribes have joined together to form collective fishery management organizations.

* Northwest Indian Fisheries Commission (1974)



Northwest Indian Fisheries Commission

Serving the Treaty Indian Tribes in Western Washington

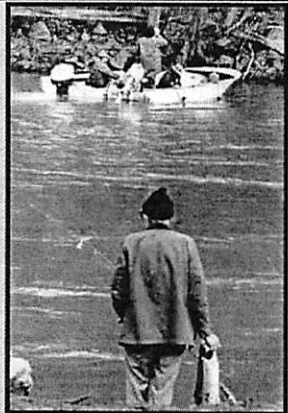
Pacific Northwest Native Americans

What right is secured by the language "in common with all citizens of the Territory"?

* the right to compete for fish with the nonnatives?

OR

* the right to a secure portion of the fish catch?



Pacific Northwest Native Americans



Actor Marlon Brando and Puyallup tribal leader Bob Satiacum just before Brando's arrest during a fish-in, March 2, 1964



Pacific Northwest Native Americans

* Most treaty tribes now maintain a fisheries management staff, although several tribes have joined together to form collective fishery management organizations.

* Northwest Indian Fisheries Commission (1974)



Northwest Indian Fisheries Commission

Serving the Treaty Indian Tribes in Western Washington

Pacific Northwest Native Americans

Twenty-four federally recognized treaty Indian tribes now live in the State of Washington west of the Cascade Mountains and north of the Columbia River drainage area. Their rights to fish were reserved in fourteen separate treaties entered into with the governor of the Territory of Washington, Isaac Stevens, on behalf of the U.S. government. Each of the treaties contains a provision securing to the natives certain off-reservation fishing rights (in exchange for ceding territory), which typically reads:

"The right of taking fish, at all usual and accustomed grounds and stations, is further secured to said Indians, in common with all citizens of the Territory, and of erecting temporary houses for the purpose of curing."



United States v. Washington, 157 F.3d 630 (9th Cir. 1998), cert. denied (1998).

* The Northwest natives have won similar judicial battles regarding the harvesting of shellfish in the Puget Sound area.

* Building on the Boldt Decision, the U.S. Court of Appeals for the Ninth Circuit ruled in 1998 that *the right to take fish in common with other citizens included a right to take shellfish as well.*

* The tribes now have a right to take 50% of every species of shellfish found anywhere within the tribes' usual and accustomed fishing areas, and are not limited to only those species actually harvested prior to signing of the treaties.

* The natives have the right to cross private land to reach the gathering locations, and can harvest from private lands, except from those locations that contain artificial beds created by private shellfish growers.



Aotearoa (New Zealand)

Population – 4,150,000

* European ancestry – 79%

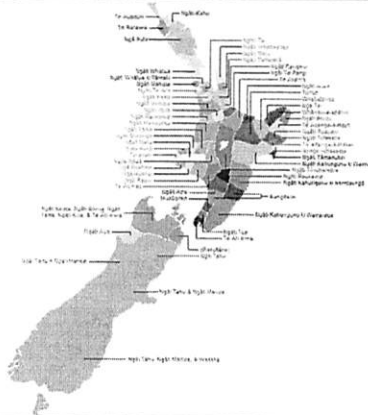
* Maori – 14%

* Other Pacific Islander – 4%

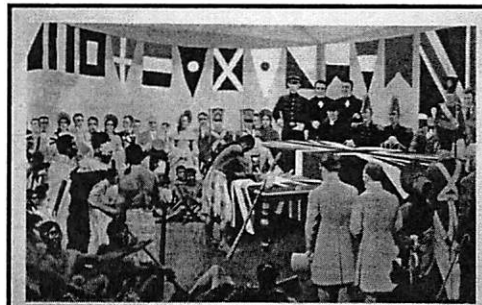
* Asian ancestry – 3 %



Maori Iwi (Tribal Groups) in Aotearoa (New Zealand)



Signing of Waitangi Treaty, 1840

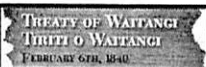


Treaty of Waitangi (1840)

English Text: "Her Majesty

the Queen of England confirms and guarantees to the Chiefs and Tribes of New Zealand and to the respective families and individuals thereof the full exclusive and undisturbed possession of their Lands and Estates, Forests, Fisheries and other properties which they may collectively or individually possess..."

Maori Text: "The Queen of England assures and agrees to give to the chiefs, the subtribes and all the Maori people of New Zealand the full authority of their lands, those places where the fires burn and all those things important to them."



Waitangi Tribunal

* Established by the Treaty of Waitangi Act 1975

* Consists of up to 16 members, appointed by the Governor-General upon recommendation of the Minister of Maori Affairs – half are Maori and half are Pakeha (non-Maori).

* Holds hearings and makes recommendations and determinations in respect of Crown forest land, railways land, State-owned enterprise land, and other public lands.



Waitangi Tribunal

* The Tribunal's process is more inquisitorial and less adversarial than that followed in the courts.



* It can conduct its own research so as to try to find the truth of a matter. Generally, a court must decide a matter solely on the evidence and legal arguments that the parties present to it.

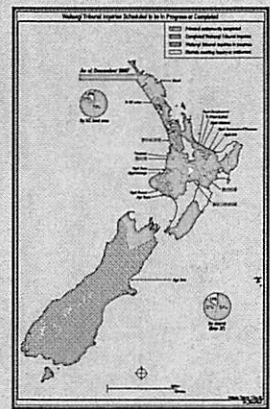
* The Tribunal's process is flexible - the Tribunal is not necessarily required to follow the rules of evidence that generally apply in the courts.

Waitangi Tribunal

As at November 2007, 21 settlements, totaling more than NZ\$700 million.

Settlements have generally included:

- * financial redress
- * a formal Crown apology for breaches of the Treaty
- * recognition of the group's cultural associations with various sites



Claimant Group	Year Settled	Value of Settlement (NZ\$)
Fisheries	1992	170,000,000
Ngati Rangiteaorere	1993	760,000
Hauai	1993	715,682
Ngati Whakaue	1994	5,210,000
Waikato - Tainui Raupatu	1995	170,000,000
Waimakuku	1995	375,000
Rotoma	1996	43,931
Te Maunga	1996	129,032
Ngati Tahu	1997	170,000,000
Ngati Turangitukua	1998	5,000,000
Pouakani	1999	2,000,000
Te Uri o Hau	2000	15,600,000
Ngati Ruanui	2001	41,000,000
Ngati Tama	2001	14,500,000
Ngati Awa (inc. ancillary claims)	2003	43,390,000
Ngati Tuwharetoa (Bay of Plenty)	2003	10,500,000
Nga Rauru Kihai	2003	31,000,000
Te Arawa (Lakes)	2004	2,700,000
Ngati Mutunga	2005	14,900,000
Te Roroa	2005	9,500,000
Te Arawa Affiliate Iwi and Hapu	2006	36,000,000
Total settlements:		743,273,645



Maori/Aotearoa

* Predominately a coastal society, tied spiritually and economically to the ocean.

* *Waitangi Tribunal* ruled that the Waitangi Treaty secured and guaranteed Maori the right to engage in commercial as well as customary and subsistence fishing.

* *Maori Fisheries Act of 1989*
– 10% of all quota to Maori.

* *Treaty of Waitangi (Fisheries Claims) Settlement Act (1992)* – 20% of all future quotas; 50% of Sealord Products Ltd.

* *Foreshore and Seabed Act (2004)*



Ngai Tahu - South Island

* Originally controlled 80% of the South Island

* 1844-64: British Crown "purchased" 34.5 million acres for 14,750 pounds, leaving the tribe with 35,757 acres (1/1,000).

* *Waitangi Tribunal* found that:

** The Crown had acted *unconsciously* in repeated breach of the Waitangi Tribunal.

** The Crown failed to provide the health, educational & land endowments necessary to give the tribe a stake in the economy.

** Cession of sovereignty by Maori was conditional, dependent on the Crown's protection of the tribe's *rangatiratanga*.



Ngai Tahu - South Island

* 3 ½ year inquiry into claims

* 23 hearings;
900 submissions;
262 witnesses &
25 corporate bodies gave testimony.



Ngai Tahu - South Island

- * Apology
- * Aoraki (Mt. Cook) – renamed & returned to Ngai Tahu to be gifted back to the nation
- * Maori place names for 78 locations
- * Received New Zealand's largest commercial fishing operation – Sealord – worth \$75-\$100 million.
- * \$170 million (NZ) cash settlement – and opportunity to buy predetermined lands with this
- * Right of first refusal on other Crown properties that become available
- * Opportunity to reexamine settlement in light of other settlements (to maintain their preeminent position among Maori iwi)



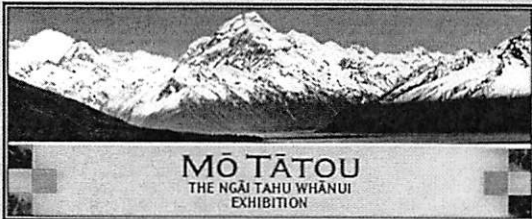
Prime Minister Jim Bolger and Ngai Tahu leader Sir Tipene O'Regan hongi after signing the Ngai Tahu deed of settlement in 1997.



Charles Crofts (Negotiator for Ngai Tahu) and Doug Graham (Minister in Charge of Treaty of Waitangi negotiations) hongi after signing the Ngai Tahu settlement, 24 September 1997.

Ngai Tahu

- * Total Assets (as of 2006) \$561 million NZ
- * Substantial activities in seafood, fishing activities, forest lands



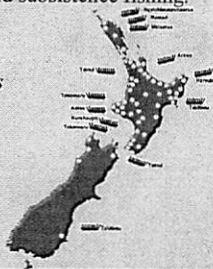
Tainui Settlement (1994)

- * 35,000 acres of public lands valued at \$64 million & 74-acre former air force base, valued at \$2.5 million – area just south of Auckland
- * \$41.6 million for a land acquisition trust
- * Establishment of an economic base
- * Formal apology by Queen Elizabeth II



Maori/Aotearoa

- * Predominately a coastal society, tied spiritually and economically to the ocean.
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- * *Foreshore and Seabed Act (2004)*



Tribes present \$400 million 'Treelord' proposal (4-4-08)

A proposal by the Central North Island Iwi Collective (five iwi, with 110,000 members) for a "Treelords" Treaty settlement involving about \$400 million of forestry assets is close to what the Government can agree to, Treaty Negotiations Minister Michael Cullen says. If accepted it will be the largest ever Treaty deal – dwarfing the commercial fisheries Sealord deal.

At the heart of settlement are 9 central North Island forests – Kaingaroa, Horohoro, Whakarewarewa, Crater, Waimihia, Marotiri, Pureora, Waituhi and Taurewa.

It has taken 20 years for the iwi to agree on the plan. Along with Ngati Tuwharetoa, the iwi group includes Ngati Whakaue, Ngai Tahu, Ngati Rangitahi and Ngati Whare. Kaingaroa Forest, showing recently logged area



Economic Impact of Maori Settlements Through the Treaty of Waitangi

* Original "fiscal envelope" of \$1 Billion (NZ) has been repudiated.

* \$720 million (NZ) had been allocated in settlements, as of 2007.

* \$90 million (NZ) is being spent annually, excluding the settlements themselves.



Q. Can the Waitangi Tribunal make recommendations involving private land?

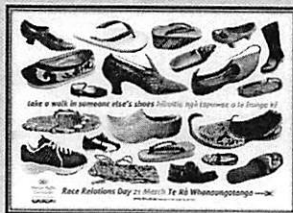


A: The Tribunal can hear

claims concerning private land, but it cannot recommend that the land be taken away from the current owners. The only exception to this is former Crown owned land that has been passed to State-owned enterprises and then sold to private owners. In these cases, the land is sold with a notation, or 'memorial', on the title, so that buyers understand that it may be the subject of a Tribunal recommendation.



The New Zealand coat of arms, adopted in 1911 & revised in 1956, identifies New Zealand as a bicultural country, with a European female figure on one side & a Maori rangatira (chief) on the other.



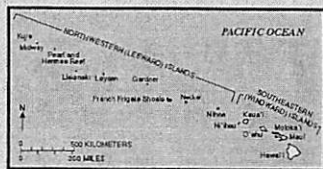
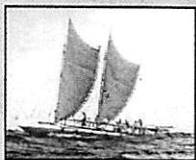
Continuing claims of Native Hawaiians to the land and marine resources of the Northwestern Hawaiian Islands.



Native Hawaiians.

Native Hawaiians also historically made extensive use of the deep sea fishing grounds in the open ocean, in waters up to 300 fathoms deep, which are called ko'a.

Native Hawaiians fished these deep sea grounds in all coastal waters off the Hawaiian Islands, including the Northwest Hawaiian Islands (NWHI).



1989 Blueprint – OHA

Submerged Lands & Offshore Waters



Native Hawaiians have an interest in the living and nonliving resources of the submerged lands and offshore water in the exclusive economic zones and territorial waters surrounding the Hawaiian Islands, Johnston Atoll, Palmyra Island, and Midway Island. *Native Hawaiians are entitled to half of all revenues received by the U.S. government from these resources. Native Hawaiians are also entitled to harvest half of all resources in these areas.* Both the living and nonliving resources should be *co-managed* by appropriate federal and state agencies, and OHA or any successor Native Hawaiian entity...*in an environmentally sensitive manner designed to preserve these resources for future generations.*

Issues related to the rights of Native Hawaiians

1. When will "Native Hawaiian Practice Permits" be issued, and by what agency?
2. What role will the Native Hawaiian Governing Entity play after the enactment of the Akaka Bill.
3. What governance role should Native Hawaiians play prior to the establishment of a Native Hawaiian Governing Entity?
4. Possible analogies – in the Canadian Arctic, Inuit and Inuvialuit people have special harvest rights for subsistence purposes; in Australia, the Aboriginal and Torres Strait Islanders can lawfully catch dugong (but no one else can).



2. Additional Findings for Native Hawaiian Practice Permits. In addition to the findings listed above, the Secretaries shall not issue a permit to allow Native Hawaiian practices unless the Secretaries find:

- a. The activity is non-commercial and will not involve the sale of any organism or material collected;
- b. The purpose and intent of the activity are appropriate and deemed necessary by traditional standards in the Native Hawaiian culture (pono), and demonstrate an understanding of, and background in, the traditional practice, and its associated values and protocols;
- c. The activity benefits the resources of the Northwestern Hawaiian Islands and the Native Hawaiian community;
- d. The activity supports or advances the perpetuation of traditional knowledge and ancestral connections of Native Hawaiians to the Northwestern Hawaiian Islands; and
- e. Any monument resource harvested from the monument will be consumed in the monument.



Red-tailed Tropicbirds display two elongated central tail feathers during courtship flight displays. *Tern Island, French Frigate Shoals*



The Native Hawaiian Government Reorganization Act (The Akaka Bill)

- * Contains strong findings
- * Establishes a process to organize a Native Hawaiian governing entity
- * Guarantees federal recognition after organizing process is complete
- * Calls for negotiations for the transfer of land, natural resources and other assets and governmental authority over them
- * Settles no claims against the United States



NH Government Reorganization Act

Findings

- * United States has a "special responsibility" for the welfare of Native Hawaiians.
- * Native Hawaiians are a "distinct indigenous group" within the scope of the federal government's Indian affairs power.
- * The United States has delegated broad authority to administer a portion of its trust responsibility to the State of Hawaii.



Office of Native Hawaiian Relations

- * Established in the Office of the Secretary of the Interior with the responsibility to "continue the process of reconciliation with the Native Hawaiian people." Consolidated Appropriations Act of 2004, Pub.L. 108-199, 118 Stat. 3, div. H, sec. 148 (2004).
- * This Office was established by the Secretary of the Interior in Order No. 3254, June 24, 2004, and the Interior Department began recruiting staff members for this office in January 2005.

NH Government Reorganization Act

* 9-Member Commission

(appointed by Secretary of Interior upon recommendations of Native Hawaiian organizations, members must have experience in genealogy and must read Hawaiian) will prepare a Roll of Native Hawaiians.

* **Native Hawaiian Interim Governing Council** will be elected by persons on the Roll

* **Referendum** will be conducted to determine elements of governing documents



NH Government Reorganization Act

"Native Hawaiian" is defined as a person who is descended

* from the aboriginal, indigenous, native people who lived in Hawaii in 1893 or

* from an individual who had 50% Native Hawaiian blood in 1921

The Interim Council and the Native Hawaiian governing entity can subsequently change the criteria for citizenship.



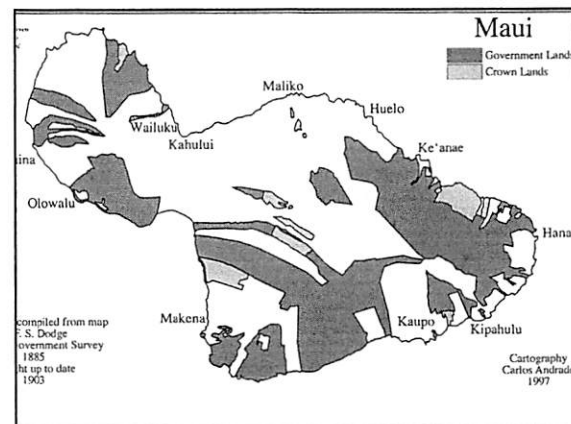
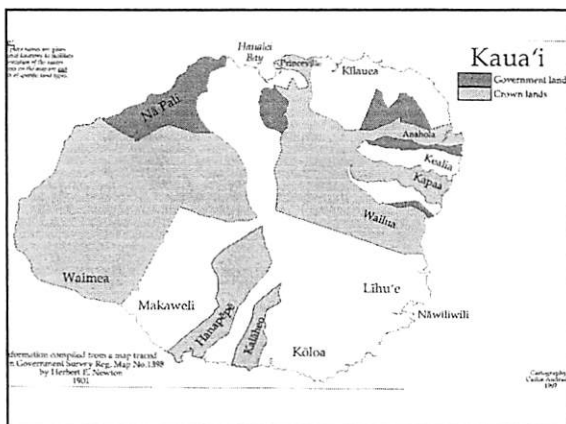
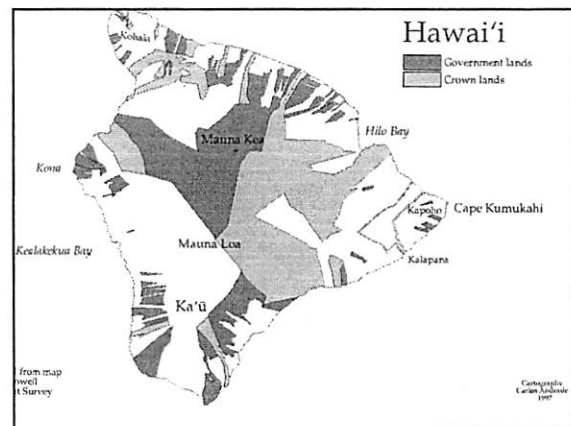
NH Government Reorganization Act

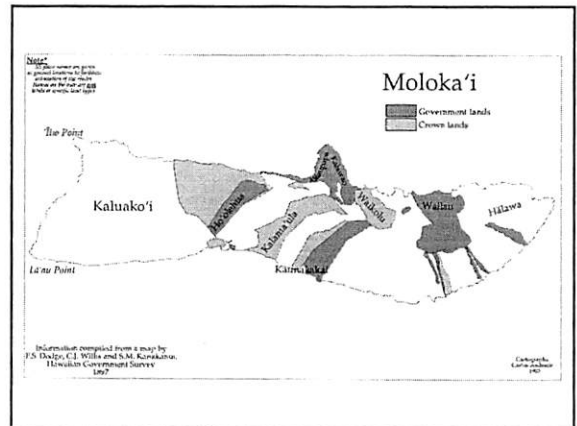
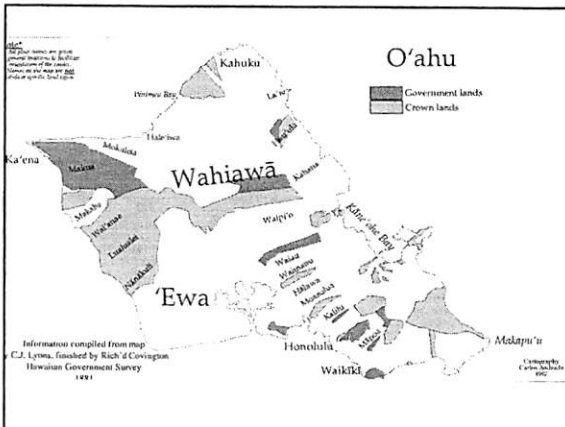
* Based on Referendum, Council will develop a **Governing Document**.

* Persons on Roll will **vote** on whether to approve the Governing Document

* Secretary of Interior determines if it meets stated criteria, and if it does, **Federal Recognition is extended to the Native Hawaiian people.** [If it does not, amendments, followed by another vote.]

* **Negotiations begin for transfer of land & resources & delegation of governmental powers to the NH Governing Entity.**





Who Owns the Crown Lands of Hawai'i?

Native Hawaiians are on the verge of a new era in which they will once again control land and resources and govern their own affairs.

Native Hawaiians need and deserve to have a land base today.

The best way to view the Crown Lands now is as a shared resource of the Native Hawaiian people.



These varied and wonderful lands would provide a substantial core to help launch the reorganized Native Hawaiian Nation and to enable Native Hawaiians to prosper once again.